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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,265	03/02/2005	Franz Riedl	72.100	6597
23598 7590 08/06/2009 BOYLE FREDRICKSON S.C. 840 North Plankinton Avenue MILWAUKEE, WI 53203				
EXAMINER JOHNSON, MATTHEW A				
ART UNIT 3656		PAPER NUMBER		
NOTIFICATION DATE 08/06/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@boylefred.com

Office Action Summary

Application No.

10/526,265

Applicant(s)

RIEDL, FRANZ

Examiner

MATTHEW A. JOHNSON

Art Unit

3656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-12 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 18 December 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-856)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fervers (USP-7,171,866) in view of Shimada (USP-5,177,386).

Re clms 1, 2 and 11: Fervers discloses a vibration exciter comprising imbalance shafts (2, 3) that stand parallel to one another (Fig. 1) and that can be driven in opposite directions with the same rotational speed (C4 L1-5), each of the imbalance shafts bearing an imbalance mass (15) attached to it in stationary fashion relative to the shaft (Fig. 1) and an imbalance mass (16) that can be moved in a rotational fashion relative to the shaft (C4 L56-61), and each of the imbalance shafts having allocated to it an adjustment means (17, 18) for individually adjusting (C2 L50-54) the position of the respective movable imbalance mass relative to the imbalance shaft that bears it, wherein a change of the relative position can be executed in such a way that the magnitude of an overall centrifugal force resulting from the imbalance masses is proportional to a speed of forward or backward motion of the coil compacting device (Fig. 2).

While Fervers does indeed disclose the relative positions of the movable imbalance masses can be disposed opposite to the fixed immovable mass resulting in a

low force (C5 L22-31), Fervers does not explicitly disclose during operation, the relative positions of each movable imbalance mass on the associated imbalance shaft can be adjusted using the adjustment means in such a way that the centrifugal forces produced by the imbalance masses on each imbalance shaft cancel each other out as a whole in each rotational position of the imbalance shafts.

Shimada teaches a vibration exciter comprising imbalance shafts (21, 22) having fixed imbalance masses (51Aa, 51Ab, 52Aa, 52Ab), movable imbalance masses (51B, 52B), and an adjustment means (32, 34) wherein during operation, the relative positions of each movable imbalance mass on the associated imbalance shaft can be adjusted using the adjustment means in such a way that the centrifugal forces produced by the imbalance mass on each imbalance shaft cancel each other out as a whole in each rotational position of the imbalance shafts (C8 L5-12, L34- 49; see also Figs. 4a and 5a) for the purpose of eliminating vibrations when the device is at a standstill (C8 L34-41).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have modified the device of Fervers such that during operation, the relative positions of each movable imbalance mass on the associated imbalance shaft can be adjusted using the adjustment means in such a way that the centrifugal forces produced by the imbalance masses on each imbalance shaft cancel each other out as a whole in each rotational position of the imbalance shafts, as taught by Shimada, for the purpose of eliminating vibrations when the device is at a standstill (C8 L34-41).

Re clm 3: Fervers discloses in order to effect a forward motion of the soil compacting device in a first horizontal direction, the relative positions of the imbalance masses are capable of being modified in such a way that the centrifugal forces of the imbalance masses do not cancel one another, but instead generate an overall centrifugal force having a horizontal component (Fig. 2, C5 L49-56).

Re clm 4: Ferver does not explicitly disclose during a transition between forward and backward motion, the centrifugal force of the imbalance masses cancel each other out as a whole.

Shimada teaches that when the device is at a standstill (i.e. when changing from forward to backward motion), the centrifugal forces cancel each other out (C8 L34-41) for the purpose of eliminating vibrations.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have modified the device of Fervers such that during a transition between forward and backward motion, the centrifugal force of the imbalance masses cancel each other out as a whole, as taught by Shimada, for the purpose of eliminating vibrations (C8 L34-41).

Re clm 5: Fervers discloses the change of the relative positions can be executed continuously (C3 L27-30).

Re clm 6: Fervers discloses the imbalance shafts are coupled with one another positively so as to be capable of rotation in opposite directions (C4 L1-5).

Re clm 7: Fervers discloses the phase position of the imbalance shafts to one another cannot be modified (see page 4 lines 4-8 of Applicants specification).

Re clm 8: Fervers discloses the adjustment of the relative positions on the imbalance shafts using the adjustment means can be executed synchronously (C3 L10-17).

Re clms 9 and 12: Fervers discloses the adjustment means can be actuated hydraulically (C4 L31-35).

Re clm 10: Fervers discloses at least one part of the imbalance masses is formed from a plurality of imbalance elements (15 and 16).

Response to Arguments

3. Applicant's arguments filed 12/18/2008 have been fully considered but they are not persuasive.

Applicant argues that neither Fervers nor Shimida disclose individually adjustable imbalance masses. Fervers discloses (C2 L50-61) that the adjustment means may be operated individually.

Applicant argues that neither Fervers nor Shimida disclose a change of the relative position can be executed in such a way that the magnitude of an overall centrifugal force resulting from the imbalance masses is proportional to a speed of forward or backward motion of the coil compacting device. In response, regarding Fervers, it is inherent that a larger magnitude would produce a greater speed, while a smaller magnitude would produce a lower speed. Therefore the magnitude is proportional to the speed.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **MATTHEW A. JOHNSON** whose telephone number is (571)272-7944. The examiner can normally be reached on **Monday - Friday 9:00a.m. - 5:30p.m. EST**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MATTHEW A JOHNSON/
Examiner, Art Unit 3656

/Richard WL Ridley/
Supervisory Patent Examiner, Art Unit 3656